

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FINJAN SOFTWARE, LTD., an Israel corporation,

Plaintiff,

V.

SECURE COMPUTING CORPORATION, a Delaware corporation, CYBERGUARD, CORPORATION, a Delaware corporation, WEBWASHER AG, a German corporation and DOES 1 THROUGH 100,

Defendants.

Civil Action No. 06-369 GMS

JOINT SPECIAL VERDICT FORM

A. Finjan Software Ltd.'s ("Finjan Software") Patent Infringement Claims Against Secure Computing Corporation, Cyberguard Corporation, Webwasher AG ("Secure Computing")

Literal Infringement

1. Do you find that Finjan Software has proven by a preponderance of the evidence that Secure Computing literally infringes any of the asserted claims of U.S. Patent No. 6,092,194? *Answer this question regarding infringement of the '194 patent with "Yes" or "No." A "Yes" is a finding for Finjan. A "No" is a finding for Secure Computing.*

YES ☒

NO ☐

If you answered "NO," please proceed to Question No. 2.

If you answered "YES," please mark the claims you found to be infringed:

Claim 1: <input checked="" type="checkbox"/>	Claim 2: <input checked="" type="checkbox"/>	Claim 3: <input type="checkbox"/>	Claim 4: <input checked="" type="checkbox"/>
Claim 5: <input checked="" type="checkbox"/>	Claim 6: <input checked="" type="checkbox"/>	Claim 7: <input checked="" type="checkbox"/>	Claim 8: <input checked="" type="checkbox"/>
Claim 9: <input checked="" type="checkbox"/>	Claim 10: <input checked="" type="checkbox"/>	Claim 11: <input checked="" type="checkbox"/>	Claim 12: <input checked="" type="checkbox"/>
Claim 13: <input checked="" type="checkbox"/>	Claim 14: <input checked="" type="checkbox"/>	Claim 24: <input checked="" type="checkbox"/>	Claim 25: <input checked="" type="checkbox"/>
Claim 26: <input checked="" type="checkbox"/>	Claim 27: <input checked="" type="checkbox"/>	Claim 28: <input checked="" type="checkbox"/>	Claim 29: <input checked="" type="checkbox"/>
Claim 30: <input checked="" type="checkbox"/>	Claim 32: <input checked="" type="checkbox"/>	Claim 33: <input checked="" type="checkbox"/>	Claim 34: <input checked="" type="checkbox"/>
Claim 35: <input checked="" type="checkbox"/>	Claim 36: <input checked="" type="checkbox"/>	Claim 65: <input checked="" type="checkbox"/>	

2. Do you find that Finjan Software has proven by a preponderance of the evidence that Secure Computing literally infringes any of the asserted claims of U.S. Patent No. 6,804,780? *Answer this question regarding infringement of the '780 patent with "Yes" or "No." A "Yes" is a finding for Finjan. A "No" is a finding for Secure Computing.*

YES ☐

NO ☒

If you answered "NO", please proceed to Question No. 3.

If you answered "YES," please mark the claims you found to be infringed:

Claim 1: <input type="checkbox"/>	Claim 2: <input type="checkbox"/>	Claim 3: <input type="checkbox"/>	Claim 4: <input type="checkbox"/>
Claim 5: <input type="checkbox"/>	Claim 6: <input type="checkbox"/>	Claim 9: <input type="checkbox"/>	Claim 10: <input type="checkbox"/>
Claim 11: <input type="checkbox"/>	Claim 12: <input type="checkbox"/>	Claim 13: <input type="checkbox"/>	Claim 14: <input type="checkbox"/>
Claim 18: <input type="checkbox"/>			

3. Do you find that Finjan Software has proven by a preponderance of the evidence that Secure Computing literally infringes any of the asserted claims of U.S. Patent No. 7,058,822? *Answer this question regarding infringement of the '822 patent with "Yes" or "No." A "Yes" is a finding for Finjan. A "No" is a finding for Secure Computing.*

YES ☒

NO ☐

If you answered "NO," please proceed to Question No. 4.

If you answered "YES," please mark the claims you found to be infringed:

Claim 4: ☒

Claim 6: ☒

Claim 8: ☒

Claim 12: ☒

Claim 13: ☒

Infringement Under The Doctrine of Equivalents

Skip Question 4 if you answered "YES" to Question 1 and found literal infringement of all asserted claims of U.S. Patent No. 6,092,194.

4. If you did not find that Secure Computing literally infringes some or all of the claims of U.S. Patent No. 6,092,194 under Question 1, do you find that Finjan Software has proven by a preponderance of the evidence that Secure Computing infringes any of those claims under the doctrine of equivalents? *Answer this question regarding infringement of the '194 patent under the doctrine of equivalents with "Yes" or "No." A "Yes" is a finding for Finjan. A "No" is a finding for Secure Computing.*

YES ☒ NO ☐

If you answered "NO", please proceed to Question No. 5.

If you answered "YES," please mark the claims you found to be infringed under the doctrine of equivalents:

Claim 1: _____	Claim 2: _____	Claim 3: <input checked="" type="checkbox"/>	Claim 4: _____
Claim 5: _____	Claim 6: _____	Claim 7: _____	Claim 8: _____
Claim 9: _____	Claim 10: _____	Claim 11: _____	Claim 12: _____
Claim 13: _____	Claim 14: _____	Claim 24: _____	Claim 25: _____
Claim 26: _____	Claim 27: _____	Claim 28: _____	Claim 29: _____
Claim 30: _____	Claim 32: _____	Claim 33: _____	Claim 34: _____
Claim 35: _____	Claim 36: _____	Claim 65: _____	

Skip Question 5 if you answered "YES" to Question 2 and found literal infringement of all asserted claims of U.S. Patent No. 6,804,780.

5. If you did not find that Secure Computing literally infringes some or all of the claims of U.S. Patent No. 6,804,780 under Question 2, do you find that Finjan Software has proven by a preponderance of the evidence that Secure Computing infringes any of those claims under the doctrine of equivalents? *Answer this question regarding infringement of the '780 patent under the doctrine of equivalents with "Yes" or "No." A "Yes" is a finding for Finjan. A "No" is a finding for Secure Computing.*

YES ☒NO ☐

If you answered "NO," please proceed to Question No. 6.

If you answered "YES," please mark the claims you found to be infringed under the doctrine of equivalents:

Claim 1: ☒Claim 2: ☒Claim 3: ☒Claim 4: ☒Claim 5: ☒Claim 6: ☒Claim 9: ☒Claim 10: ☒Claim 11: ☒Claim 12: ☒Claim 13: ☒Claim 14: ☒Claim 18: ☒

Skip Question 6 if you answered "YES" to Question 3 and found literal infringement of all asserted claims of U.S. Patent No. 7,058,822.

6. If you did not find that Secure Computing literally infringes some or all of the claims of U.S. Patent No. 7,058,822 under Question 3, do you find that Finjan Software has proven by a preponderance of the evidence that Secure Computing infringes any of those claims under the doctrine of equivalents? *Answer this question regarding infringement of the '822 patent under the doctrine of equivalents with "Yes" or "No." A "Yes" is a finding for Finjan. A "No" is a finding for Secure Computing.*

YES ☐NO ☐

If you answered "NO," please proceed to Question No. 7.

If you answered "YES," please mark the claims you found to be infringed under the doctrine of equivalents:

Claim 4: ☐Claim 6: ☐Claim 8: ☐Claim 12: ☐Claim 13: ☐

Willful Infringement

7. If your answer was "YES" for any of Questions 1, 2, 3, 4, 5, or 6, was Secure Computing's infringement willful?

YES ✓ NO

B. Secure Computing's Patent Invalidity Claims Against Finjan Software**Anticipation**

8. Do you find that Secure Computing has proven by clear and convincing evidence that any of the asserted claims of U.S. Patent No. 6,092,194 are invalid because they are anticipated by prior art? *Answer this question regarding validity of the '194 patent with "Yes" or "No." A "Yes" is a finding for Secure Computing. A "No" is a finding for Finjan.*

YES _____

NO ☒ _____

If you answered "NO," please proceed to Question No. 9.

If you answered "YES," please mark the claims you found to be anticipated by prior art:

Claim 1: _____	Claim 2: _____	Claim 3: _____	Claim 4: _____
Claim 5: _____	Claim 6: _____	Claim 7: _____	Claim 8: _____
Claim 9: _____	Claim 10: _____	Claim 11: _____	Claim 12: _____
Claim 13: _____	Claim 14: _____	Claim 24: _____	Claim 25: _____
Claim 26: _____	Claim 27: _____	Claim 28: _____	Claim 29: _____
Claim 30: _____	Claim 32: _____	Claim 33: _____	Claim 34: _____
Claim 35: _____	Claim 36: _____	Claim 65: _____	

9. Do you find that Secure Computing has proven by clear and convincing evidence that any of the asserted claims of U.S. Patent No. 6,804,780 are invalid because they are anticipated by prior art? *Answer this question regarding validity of the '780 patent with "Yes" or "No." A "Yes" is a finding for Secure Computing. A "No" is a finding for Finjan.*

YES _____

NO ☒ _____

If you answered "NO," please proceed to Question No. 10.

If you answered "YES," please mark the claims you found to be anticipated by prior art:

Claim 1: _____	Claim 2: _____	Claim 3: _____	Claim 4: _____
Claim 5: _____	Claim 6: _____	Claim 9: _____	Claim 10: _____
Claim 11: _____	Claim 12: _____	Claim 13: _____	Claim 14: _____
Claim 18: _____			

10. Do you find that Secure Computing has proven by clear and convincing evidence that any of the asserted claims of U.S. Patent No. 7,058,822 are invalid because they are anticipated by prior art? *Answer this question regarding validity of the '822 patent with "Yes" or "No." A "Yes" is a finding for Secure Computing. A "No" is a finding for Finjan.*

YES _____

NO ☒ _____

If you answered "NO," please proceed to Question No. 11.

If you answered "YES," please mark the claims you found to be anticipated by prior art:

Claim 4: _____ Claim 6: _____ Claim 8: _____ Claim 12: _____

Claim 13: _____

Obviousness

11. Do you find that Secure Computing has proven by clear and convincing evidence that any of the asserted claims of U.S. Patent No. 6,092,194 are obvious in light of the prior art? *Answer this question regarding validity of the '194 patent with "Yes" or "No." A "Yes" is a finding for Secure Computing. A "No" is a finding for Finjan.*

YES _____

NO ☒ _____

If you answered "NO", please proceed to Question No. 12.

If you answered "YES," please mark the claims you found to be obvious in light of the prior art:

Claim 1: _____ Claim 2: _____ Claim 3: _____ Claim 4: _____

Claim 5: _____ Claim 6: _____ Claim 7: _____ Claim 8: _____

Claim 9: _____ Claim 10: _____ Claim 11: _____ Claim 12: _____

Claim 13: _____ Claim 14: _____ Claim 24: _____ Claim 25: _____

Claim 26: _____ Claim 27: _____ Claim 28: _____ Claim 29: _____

Claim 30: _____ Claim 32: _____ Claim 33: _____ Claim 34: _____

Claim 35: _____ Claim 36: _____ Claim 65: _____

12. Do you find that Secure Computing has proven by clear and convincing evidence that any of the asserted claims of U.S. Patent No. 6,804,780 are obvious in light of the prior art? *Answer this question regarding validity of the '780 patent with "Yes" or "No." A "Yes" is a finding for Secure Computing. A "No" is a finding for Finjan.*

YES _____

NO ☒ _____

If you answered "NO", please proceed to Question No. 13.

If you answered "YES," please mark the claims you found to be obvious in light of the prior art:

Claim 1: _____ Claim 2: _____ Claim 3: _____ Claim 4: _____

Claim 5: _____ Claim 6: _____ Claim 9: _____ Claim 10: _____

Claim 11: _____ Claim 12: _____ Claim 13: _____ Claim 14: _____

Claim 18: _____

13. Do you find that Secure Computing has proven by clear and convincing evidence that any of the asserted claims of U.S. Patent No. 7,058,822 are obvious in light of the prior art? *Answer this question regarding validity of the '822 patent with "Yes" or "No." A "Yes" is a finding for Secure Computing. A "No" is a finding for Finjan.*

YES _____

NO ☒ _____

If you answered "NO", please proceed to Question No. 14.

If you answered "YES," please mark the claims you found to be obvious in light of the prior art:

Claim 4: _____ Claim 6: _____ Claim 8: _____ Claim 12: _____

Claim 13: _____

C. Damages for Finjan Software's Patent Infringement Claims Against Secure Computing

Webwasher Software

14. If you have found that one or more of the asserted claims of U.S. Patent No. 6,092,194, U.S. Patent No. 6,804,780, and/or U.S. Patent No. 7,058,822 are valid and infringed by Secure Computing's Webwasher Software, then what is the reasonable royalty rate to which Finjan Software has proven by a preponderance of the evidence and the amount of sales of the Webwasher Software that the royalty rate should be applied to?

16 % \$ 49,000,000

Webwasher Hardware Appliances

15. If you have found that one or more of the asserted claims of U.S. Patent No. 6,092,194, U.S. Patent No. 6,804,780, and/or U.S. Patent No. 7,058,822 are valid and infringed by Secure Computing's Webwasher Hardware Appliances, then what is the reasonable royalty rate to which Finjan Software has proven by a preponderance of the evidence and the amount of sales of the Webwasher Hardware Appliances that the royalty rate should be applied to?

8 % \$ 3,250,000

Cyberguard TSP Hardware Appliances

16. If you have found that one or more of the asserted claims of U.S. Patent No. 6,092,194, U.S. Patent No. 6,804,780, and/or U.S. Patent No. 7,058,822 are valid and infringed by Secure Computing's Cyberguard TSP Hardware Appliances, then what is the reasonable royalty rate to which Finjan Software has proven by a preponderance of the evidence and the amount of sales of the Cyberguard TSP Hardware Appliances that the royalty rate should be applied to?

8 % \$ 12,500,000

D. Secure Computing Corporation's ("Secure Computing") Patent Infringement Claims Against Finjan Software, Ltd. and Finjan Software, Inc. ("Finjan")

Literal Infringement

17. Do you find that Secure Computing has proven by a preponderance of the evidence that Finjan literally infringes any of the asserted claims of U.S. Patent No. 7,185,361? *Answer this question regarding infringement of the '361 patent with "Yes" or "No." A "Yes" is a finding for Secure Computing. A "No" is a finding for Finjan.*

YES _____

NO ☒ _____

If you answered "NO," please proceed to Question No. 18.

If you answered "YES," please mark the claims you found to be infringed:

Claim 1: _____ Claim 2: _____ Claim 3: _____ Claim 4: _____

Claim 5: _____ Claim 7: _____ Claim 8: _____ Claim 9: _____

Claim 10: _____ Claim 11: _____ Claim 12: _____ Claim 14: _____

Claim 15: _____

18. Do you find that Secure Computing has proven by a preponderance of the evidence that Finjan literally infringes Claim 37 of U.S. Patent No. 6,357,010? *Answer this question regarding infringement of the '010 patent with "Yes" or "No." A "Yes" is a finding for Secure Computing. A "No" is a finding for Finjan.*

YES _____

NO ☒ _____

Inducing Infringement

Skip Question 19 if you answered "NO" to Question 17 and did not find literal infringement of the '361 patent.

19. Do you find that Secure Computing has proven by a preponderance of the evidence that Finjan has induced infringement of any of the asserted claims of U.S. Patent No. 7,185,361? *Answer this question regarding inducing infringement of the '361 patent with "Yes" or "No." A "Yes" is a finding for Secure Computing. A "No" is a finding for Finjan.*

YES _____ NO _____

If you answered "NO," please proceed to Question No. 20.

If you answered "YES," please mark the claims you found to be infringed by inducement:

Claim 1: _____	Claim 2: _____	Claim 3: _____	Claim 4: _____
Claim 5: _____	Claim 7: _____	Claim 8: _____	Claim 9: _____
Claim 10: _____	Claim 11: _____	Claim 12: _____	Claim 14: _____

E. Finjan's Patent Invalidity Claims Against Secure Computing

Anticipation

20. Do you find that Finjan has proven by clear and convincing evidence that any of the asserted claims of U.S. Patent No. 7,185,361 are invalid because they are anticipated by prior art? *Answer this question regarding validity of the '361 patent with "Yes" or "No." A "Yes" is a finding for Finjan. A "No" is a finding for Secure Computing.*

YES _____ NO  _____

If you answered "NO," please proceed to Question No. 21.

If you answered "YES," please mark the claims you found to be anticipated by prior art:

Claim 1: _____	Claim 2: _____	Claim 3: _____	Claim 4: _____
Claim 5: _____	Claim 7: _____	Claim 8: _____	Claim 9: _____
Claim 10: _____	Claim 11: _____	Claim 12: _____	Claim 14: _____
Claim 15: _____			

21. Do you find that Finjan has proven by clear and convincing evidence that Claim 37 of U.S. Patent No. 6,357,010 is invalid because it is anticipated by prior art? *Answer this question regarding validity of the '010 patent with "Yes" or "No." A "Yes" is a finding for Finjan. A "No" is a finding for Secure Computing.*

YES _____ NO ✓ _____

If you answered "NO", please proceed to Question No. 22.

Obviousness

22. Do you find that Finjan has proven by clear and convincing evidence that any of the asserted claims of U.S. Patent No. 7,185,361 are obvious in light of the prior art? *Answer this question regarding validity of the '361 patent with "Yes" or "No." A "Yes" is a finding for Finjan. A "No" is a finding for Secure Computing.*

YES _____ NO ✓ _____

If you answered "NO," please proceed to Question No. 23.

If you answered "YES," please mark the claims you found to be obvious in light of the prior art:

Claim 1: _____ Claim 2: _____ Claim 3: _____ Claim 4: _____
 Claim 5: _____ Claim 7: _____ Claim 8: _____ Claim 9: _____
 Claim 10: _____ Claim 11: _____ Claim 12: _____ Claim 14: _____
 Claim 15: _____

23. Do you find that Finjan has proven by clear and convincing evidence that Claim 37 of U.S. Patent No. 6,357,010 is invalid because it is obvious in light of the prior art?

YES _____ NO ✓ _____

F. Damages for Secure Computing's Patent Infringement Claims Against Finjan

- 24.** If you have found that one or more of the asserted claims of U.S. Patent No. 7,185,361 are valid and infringed by Finjan's Vital Security NG Appliances, then what is the reasonable royalty rate to which Secure Computing has proven by a preponderance of the evidence and the amount of sales that the royalty rate should be applied to?

_____ % \$ _____

- 25.** If you have found that Claim 37 of U.S. Patent No. 6,357,010 is valid and infringed by Finjan's Vital Security for Documents, then what is the reasonable royalty rate to which Secure Computing has proven by a preponderance of the evidence and the amount of sales that the royalty rate should be applied to?

_____ % \$ _____

REDACTED